

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.)
) Criminal No. M-04-1685-CBS
 GILBERTO ZAYAS)
 a/k/a "Tony")
)
 Defendant.)

GOVERNMENT'S SUBMISSION REGARDING DETENTION

The United States of America (the "government") hereby submits the following information relative to defendant Gilberto Zayas, a/k/a "Tony" and the issue of his release or detention in this case in accordance with 21 U.S.C. §3142(f)(2)(A).

In the course of the detention proceedings, defendant Zayas has stated that his real name is "Gilberto Zayas," and that he was born in Bayamon, Puerto Rico on August 5, 1973. To that end, counsel for Zayas produced a copy of a Puerto Rican birth certificate.

In light of Pretrial Service Officer Quascot's reported concern that Zayas was not of Puerto Rican descent (Officer Quascot did not detect a Puerto Rican accent nor was she satisfied with Zayas' professed knowledge of Puerto Rico), the government asked authorities in Puerto Rico to "follow up" and/or somehow document defendant's professed name and nationality.

The results of their investigation confirmed that "Gilberto Zayas" was indeed born in Puerto Rico on August 5, 1973 but that Mr. Zayas was also convicted of felony possession of drugs on

*Filed
in open court
6/3/04
LPP*

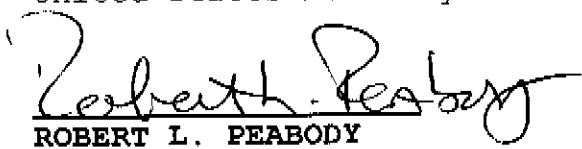
2

December 2, 1999 in Bayamon, PR and sentenced to 2 years in prison. In connection with Zayas conviction and incarceration, Puerto Rican authorities obtained a booking photograph of "Gilberto Zayas" at the time of his arrest on the aforementioned drug charge on July 19, 1999 - a date that is also confirmed by Zayas PR criminal record. Examination of the Zayas booking photograph depicts an individual obviously different than the defendant "Gilberto Zayas" who is currently before the Court. (A copy of both the Spanish language PR criminal record, an english translation of same, and the 7/19/99 booking photo of the real Gilberto Zayas is attached to this submission.)

Based on the foregoing, the government contends that this defendant is not who he professes to be and, as such, now poses a real issue as to his true identity.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney



ROBERT L. PEABODY
Assistant U.S. Attorney
(617) 748-3240

Dated: June 3, 2004